

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS SUMMARILY
VACATING AN EXISTING EMERGENCY ACCESS EASEMENT AT
901-905 MONTAGUE EXPRESSWAY**

WHEREAS, California Streets and Highways Code Sections 8333, subsection (a), authorizes the City Council to summarily vacate a public service easement when the easement has not been used for the purpose for which it was dedicated or acquired for five consecutive years immediately preceding the proposed vacation; and

WHEREAS, California Streets and Highways Code Sections 8333, subsection (c) authorizes the City Council to summarily vacate a public service easement that has been superseded by relocation, or determined to be excess by the easement holder, and there are no other public facilities located within the easement ; and

WHEREAS, there is an existing emergency access easement (EAE) located at 901-905 Montague Expressway as more particularly described in **Exhibit A**, attached hereto and incorporated by this reference; and

WHEREAS, the Montague Expressway Widening project, currently being constructed by the Joint Powers Authority (consisting of County of Santa Clara, Santa Clara Valley Water District, and Valley Transportation Authority) will result in a higher street grade on South Milpitas Boulevard that renders the EAE unusable by the City of Milpitas; and

WHEREAS, City's Police and Fire Departments have evaluated and determined that the existing EAE has not been used for the purpose for which it was dedicated for in the past five consecutive years, since there are two existing access points to the subject property for the emergency vehicles to use and continue to use, one from South Milpitas Boulevard and one from Montague Expressway; and

WHEREAS, City's Police and Fire Departments have evaluated and determined that the existing EAE is excess based on the two alternate access points to the subject property; and

WHEREAS, City's Engineering Department also determined that the existing EAE is excess and that there are no public facilities within the existing EAE; and

WHEREAS, the City Council intends to summarily vacate the EAE as described and depicted on **Exhibit A** attached to this Resolution, pursuant to California Streets and Highways Code, Division 9, Part 3, Chapter 4, Sections 8333 (a) & (c) and 8335.

NOW THEREFORE, the City Council of the City of Milpitas hereby finds, determines and resolves as follows:

1. The existing EAE described and depicted in **Exhibit A** has not been used for the purpose for which it was dedicated for five consecutive years immediately preceding the proposed vacation.
2. The existing EAE described and depicted in **Exhibit A** has been superseded by relocation, or determined to be excess by the City, and there are no public facilities located within the existing EAE.

3. The City Council does hereby order the summary vacation of the existing EAE as described and depicted in **Exhibit A**, in accordance with California Streets and Highways Code Section 8333, subsections (a) & (c), and Section 8335.
4. The City Clerk is hereby directed to record a certified copy of this Resolution, including **Exhibit A** hereto, attested by the City Clerk under seal, with the County of Santa Clara Recorder's Office.
5. From and after the date this Resolution is recorded, the existing EAE vacated herein as described and depicted in **Exhibit A** will no longer constitute an EAE.

PASSED AND ADOPTED this _____ day of _____, 2016, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Mary Lavelle, City Clerk

Jose S. Esteves, Mayor

APPROVED AS TO FORM:

Christopher J. Diaz, City Attorney

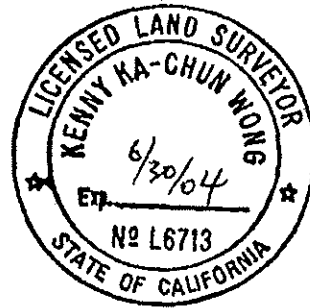
“EXHIBIT A”

EXHIBIT "A"
LEGAL DESCRIPTION
EMERGENCY ACCESS EASEMENT
APN 86-32-027

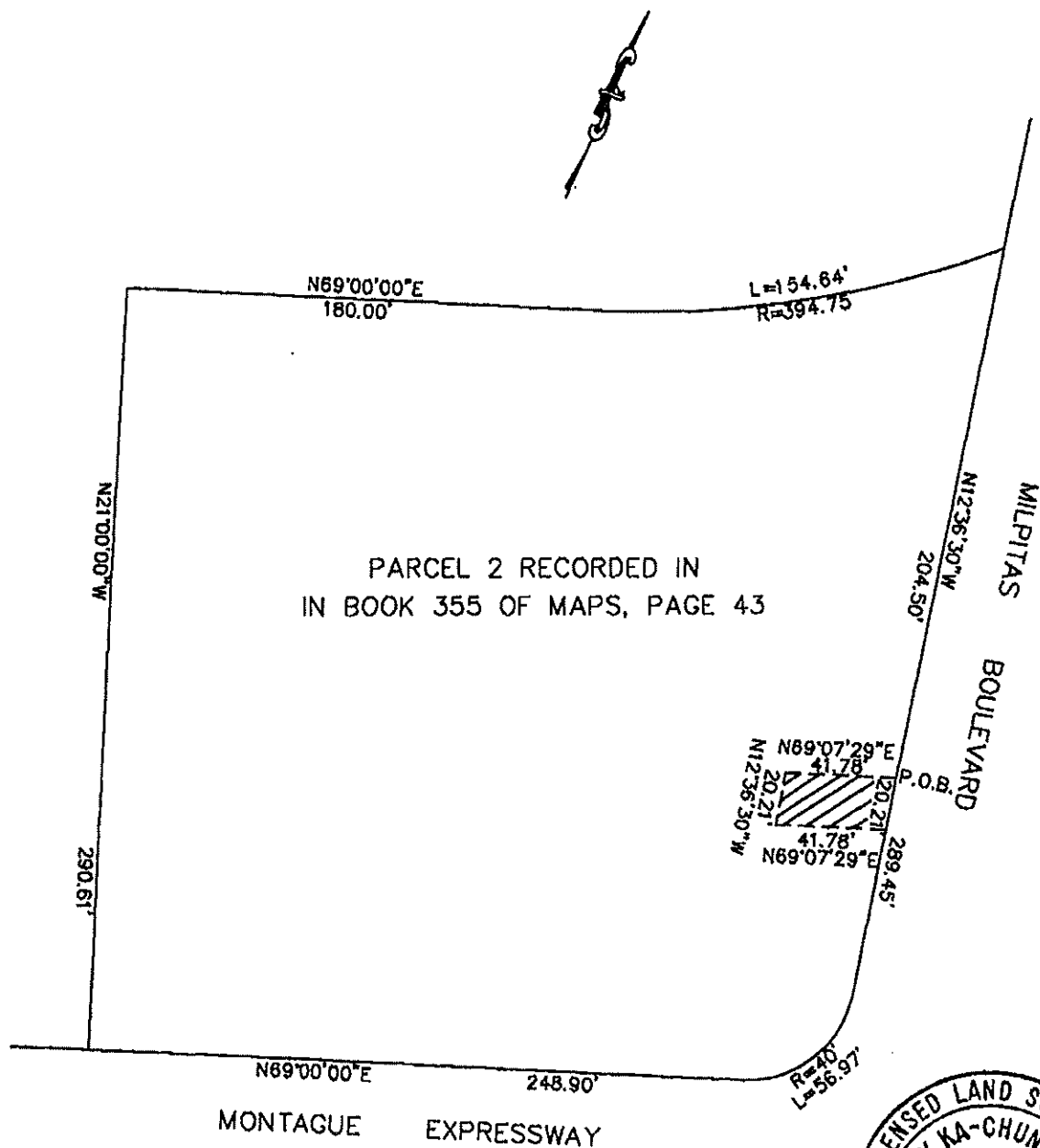
REAL PROPERTY in the City of Milpitas, County of Santa Clara, State of California,
described as follows:

Being a portion of Parcel 2 as shown on the Parcel Map recorded in Book 355 of Maps at
Page 43, Official Records of Santa Clara County, California, further described as follows:

Commencing at the northeasterly corner of Parcel 2 of the said Parcel Map recorded in
Book 355 of Maps, Page 43; thence S12°36'30"E, 204.50 feet along the easterly line of
the said Parcel 2 to the point of beginning of this description; thence S69°07'29"W,
41.78 feet; thence S12°36'30"E, 20.21 feet; thence N69°07'29"E, 41.78 feet; thence
along the easterly line of said Parcel 2 N12°36'30"W, 20.21 feet to the point of
beginning.



Kenny Wong, PE, PLS



Deming, PE, PS

PREPARE BY:
K W ENGINEERING, INC
516a VALLEY WAY
MILPITAS, CA 95035
TEL. (408) 935-8948

PLAT TO ACCOMPANY A LEGAL DESCRIPTION:
EMERGENCY ACCESS EASEMENT
APN 86-32-027

DATE: JUNE 14, 2002
SCALE 1"=60'
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